



30 OCT 2006

GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

In re Application of
PIANA *et al*
U.S. Application No.: 10/510,235
PCT No.: PCT/FR03/000683
Int. Filing Date: 04 March 2003
Priority Date: 04 March 2002
Attorney Docket No.: P25925
For: VACUUM MASSAGE DEVICE
COMPRISING THE AFFUSION OF
WATER OR ANY OTHER SUITABLE
LIQUID

DECISION

This is a decision on the "Renewed Request for Refund" filed on 03 October 2006.

BACKGROUND

On 13 October 2004, applicants filed papers for entry into the national stage of PCT/FR03/000683 which included the large entity fees for a national stage application and a large entity petition to revive fee entity totaling \$2,320.00.

On 11 January 2005, applicants filed several papers including a document titled "Statement of Status as Small Entity."

On 07 March 2005, a refund of \$475.00 was credited to counsel's Deposit Account No. 19-0089.

On 03 October 2006, a renewed request for refund of the remaining \$685.00 in fees paid was filed.

DISCUSSION

In the papers filed 11 January 2005, applicants requested small entity status and a refund of one-half the fees paid. 37 CFR 1.28 (a) states, in part that:

A refund pursuant to § 1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of

10/510,235

the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee.

Applicants submitted the change in status to a small entity within the three-month time period required as the transmittal letter was filed 13 October 2004. A partial refund of \$475.00 was previously paid.

Applicants are also entitled to a credit of \$685.00 for the petition to revive fee of \$1,370.00.

CONCLUSION

Applicants' request for a refund pursuant to 37 CFR 1.28(a) is **GRANTED**.

Counsel's Deposit Account No. 10-0435 has been credited \$685.00 as requested.

The above-captioned application will be forwarded to the Tech Center 3700 for further processing.


James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302